In the High Court of Himachal Pradesh Shimla

Cr. Appeal No.321 of 2000

Date of Decision: 17th August, 2007.

State of H.P. …. Appellant

Versus.

Surinder Pal & ors. ….Respondents.

Coram:

The Hon'ble Mr. Justice Deepak Gupta, J.

Whether approved for reporting?

For the Appellant: Mr. J.S.Guleria, Law Officer.

For the Respondents: Mr. Ajay Kumar, Advocate.

Deepak Gupta, J (Oral).

This appeal is directed against the judgment passed by the Additional Chief Judicial Magistrate, Dehra in Criminal Case No. 34-II/93 decided on 7.8.1999 acquitting the accused of having committed the offence under Section 498-A IPC.

Complainant Nisha Devi was married to the accused Surinder Pal. The other two accused, Usha Devi and Rameshwar Devi are the sister-in-law and mother-in-law, respectively of the complainant. According to the complainant, her husband had developed illicit relations with his sister-in-law Usha Devi and due to this reason, he used to give beatings to the complainant at the instance of other two accused. In the complaint, it was alleged that on 3.11.1992, the accused came from Hoshiarpur and gave beatings to the complainant. It is further alleged that on 12.1.1992, the mother in-law of the complainant gave

beatings to her and she was saved by witness PW2 Kishori Lal. She thereafter lodged a complaint with the Police Station at Dehra on the basis of which FIR No.101/92 was lodged and after investigation, challan under Section 498-A of the Indian Penal Code was filed against the accused persons. The accused pleaded innocence and claimed trial.

The prosecution examined the complainant and the other material witnesses are PW2 Kishori Lal, PW3 Tirath Ram and PW4 Harbans Lal. The complainant in her statement in Court has stated that on 13.11.1992, her mother-in-law came from Hoshiarpur at 4.30 pm and gave her beatings so as to compel her to divorce her husband. She was saved by PW2 Kishori Lal. On the next day i.e. 14.11.1992, she went to her husband at Hoshiarpur but her husband did not listen her and asked her to go away and thereafter she lodged the report with the police. She has admitted that a number of criminal cases regarding matrimonial disputes are going on between her and her husband. She has also alleged that her husband beat her up on 14.11.1992 between 8 to 9 pm.

PW2 Kishori Lal has stated that he lives close to the house of the accused Surinder Pal. According to him, about 4 years back, he heard noises from the house of the accused. When he went there, he saw Rameshwari Devi accused pushing the complainant and he (the witness) saved the complainant.

PW3 Tirath Ram is also alleged to be on the spot. According to him, the occurrence took place between 7.30 pm to 7.45 pm. PW3 comes up with different version. According to

him on 13.11.1992 at night time, when he was sleeping, he heard noises and found that some beatings were going on inside the room. Complainant was shouting but he could not say who was inside the room. He further states that Surinder Pal accused came on 14.11.1992 at 3 pm. PW4 Harbans Lal has not supported the prosecution version at all.

A close scrutiny of the evidence of the witnesses reveals glaring contradictions in the statements of the witnesses as well as material improvements. There is no evidence with regard to the beatings given by the accused Surinder Pal to the complainant prior to 13.11.1992. Even with regard to the date of occurrence, there are contradictions since in the complainant's statement it was mentioned that she was beaten up by her mother-in-law on 13.11.1992 but the same was not corroborated by any witness. Similarly, in her complaint it is alleged that she was beaten up by her husband on 3.11.1992 but in her statement in Court the complainant stated that she was beaten up on 14.11.1992 when she reached home after lodging of the FIR.

All the witnesses have given different time with regard to the incident which is alleged to have taken place on 13.11.1992. The complainant-wife has suffered no serious injury and as per PW5 Dr. Arun Kumar, the injuries alleged to have been suffered were simple injuries and could have been self inflicted and caused due to fall. The learned trial Court has rightly acquitted the accused.

In view of the above discussion, there is no merit in this appeal which is accordingly dismissed. Bail bonds furnished by the accused shall stand discharged.

August 17, 2007. (Deepak Gupta), J.

s.